

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

PETER A. HOCHSTEIN, et al,  
individuals,

Plaintiff,

CASE NO. 04-73071

v.

PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

MICROSOFT CORPORATION, and  
SONY COMPUTER ENTERTAINMENT  
AMERICA, INC.,

Defendant,

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APPOINTMENT AND ORDER OF REFERENCE TO SPECIAL MASTER

This is a complex patent case pending since October, 2004. Two patents are involved. Pending before the Court are motions, and supplemental motions, by Defendants for summary judgement of non-infringement and invalidity. Because of the complexity of the subject matter and the volume of motions papers, IT IS ORDERED that:

1. The pending motions are referred to a Special Master to hear, decide upon, and report and recommend to the Court, in writing, the appropriate determination of such motions. If necessary, the Special Master will also hold a claim construction (Markman) hearing.
2. The Special Master shall confer with the parties to arrange a schedule for additional briefing if necessary, hearing(s) if necessary, and argument, which shall be filed with the Court.
3. Copies of papers filed with the Special Master shall also be filed simultaneously with the Clerk of the Court and served pursuant to applicable federal rules and a copy shall be simultaneously sent to Judge Paul Borman. Forwarding letters or informal communications need not be filed but should be served on the other parties.

4. The Special Master may conduct oral hearing and meetings in Detroit at a location to be agreed upon by the parties and the Special Master, and if desired, in a room in the Federal Courthouse in Detroit, if available.

5. A petition for review by the Court of the recommendation of the Special Master shall be submitted in writing within ten (10) days of receipt of the Special Master's report. Review of the recommendation of the Special Master by the Court shall be governed by 28 U.S.C. §636(b)(1)(B) and (c).

6. The Special Master may use a law clerk or paralegal at his or her discretion, and shall keep detailed records of his time and expenses. The Special Master shall render detailed monthly bills for all fees and expenses at the same rates ordinarily charged clients for his services, and such bills shall be paid promptly as follows: Fifty percent (50%) by defendants and Fifty percent (50%) by plaintiff. These monthly bills shall be submitted directly to counsel for the parties who shall take responsibility for prompt payment by their respective clients.

7. The Court will permit the parties to jointly agree on a Special Master. If the parties fail to agree upon a Special Master within two weeks of this Order, then the Court will select a Special Master and permit the parties to raise a basis for recusal of that Special Master.

8. Objections, if any, to this order shall be filed within seven (7) days.

s/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: August 18, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on August 18, 2006.

s/Denise Goodine

Case Manager